

SUBDIVISION REGULATIONS

OF

RUTHERFORD COUNTY, NORTH CAROLINA

Revised 2006

Adopted April 1, 1985

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OF
RUTHERFORD COUNTY, NORTH CAROLINA

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ARTICLE I SHORT TITLE

These regulations shall be known and may be cited as the Subdivision Regulations of Rutherford County, North Carolina.

ARTICLE II AUTHORITY AND ENACTMENT CLAUSE

The Board of Commissioners of Rutherford County, pursuant to the authority conferred by an act of the General Assembly of the State of North Carolina (General Statutes, Article 18, Part 2 of Chapter 153A), does hereby ordain and enact into law these articles and sections.

ARTICLE III JURISDICTION

On and after the date of adoption, these regulations shall govern each and every subdivision of land within Rutherford County (hereinafter referred to as the "County") and outside the subdivision regulation jurisdiction of any incorporated municipality. However, this ordinance may also regulate territory within the subdivision regulation jurisdiction of any municipality whose governing body may, upon two years written notice, withdraw its approval of the County Subdivision Regulations, and those regulations shall have no further effect within the municipality's jurisdiction.

ARTICLE IV PURPOSE

The purpose of this ordinance is to support and guide the proper subdivision of land within the defined jurisdiction of Rutherford County, as identified in Article III, in order to promote the public health, safety and general welfare of the County. This ordinance is designed to provide for the orderly development of Rutherford County; for the coordination of streets and highways with other public facilities; for the dedication or reservation of rights-of-way or easements for streets and utility purposes; and for the distribution of population and traffic, which shall avoid congestion and overcrowding, and which will create conditions essential to public health, safety and the general welfare. This ordinance is designed to further facilitate adequate provision for water, sewerage, parks, schools and playgrounds, and also to facilitate the further resubdivision of larger tracts into smaller parcels of land.

ARTICLE V COMPLIANCE

Section 500. Approval of Plats

A plat shall be prepared, approved and recorded pursuant to this ordinance whenever any subdivision of land occurs within the defined jurisdiction of Rutherford County. All plats for the subdivision of land shall conform to the requirements of this ordinance and shall be submitted in accordance with the procedures and specifications established herein. No plat of a subdivision of land within the defined jurisdiction of Rutherford County shall be filed or recorded by the Rutherford County Register of Deeds until it has been submitted to and given final approval as provided herein and until such approval is entered on the face of the final plat by the Chairman or Vice Chairman of the Rutherford County Planning Commission or by the County Planner or Chief Building Inspector if there has been a delegation of authority to the County Planner or Chief Building Inspector as hereafter provided.

Minor Subdivision: A minor subdivision is defined as any subdivision of a tract of land into not more than six lots where the intention is not to further subdivide the said tract of land and where no new street right-of-way is involved except where defined by the Planning Department as a private minor road.

The Planning Department shall determine if a subdivision may be considered as a minor subdivision only after the following conditions have been met:

- (1) The subdivision meets the requirements for a minor subdivision as defined in this ordinance.
- (2) The Planning Department has received a signed letter of intent from the subdivider or his agent in a form acceptable to the Planning Department, clearly stating that the application for consideration of the subdivision as a minor subdivision is in no way submitted to circumvent the requirements of this ordinance pertaining to subdivisions other than minor subdivisions.
- (3) That the subdivider or his agent fully understands, to the satisfaction of the Planning Department, that any further subdivision of the parent tract of land or any lots or parcels of land therefrom subdivided which are subject to the provisions of this ordinance shall not be considered as a minor subdivision.

Official Maps or Plans: Any maps or plans officially adopted by the Board of Commissioners as a guide for the development of Rutherford County.

Planning Commission: The Rutherford County Planning Commission.

Plat: A map or plan of a parcel of land which is to be or has been subdivided.

Private Driveway: A roadway serving two or fewer lots, building sites or other parcels of land, and not intended for public ingress or egress.

Private Minor Road: A road serving a minor subdivision and having direct access to an existing state maintained road. Said private minor road shall have a right-of-way that conforms to the requirements as set forth by the NC Department of Transportation, Division of Highways' "Subdivision Roads Minimum Construction Standards," dated May, 1983, or as hereafter amended, for the eventuality of constructing a public road by the residents of the private minor road. The right-of-way requirements are the only required design criteria for a private minor road. However, the developer or seller shall be made aware by the Planning Commission of the provisions of NC GS 136-102.6.

Public Water System: Water systems serving 15 or more connections or serving more than 25 year-round residents are classified as public water supplies by state law and plans and specifications must be approved by the Department of Human Resources, Division of Health Services. Also, water supply systems serving from 2 to 14 connections shall be regulated by the appropriate County Board of Health.

Public Sewer System: Any sewer system owned and operated by a local unit of government in Rutherford County, or other sewage treatment facility serving two or more connections, or any wastewater treatment system having a discharge to surface waters when approved by the Division of Environmental Management of the Department of Natural Resources and

Community Development, or ground absorption system serving two or more connections when approved by the County Sanitarian.

Single Tier Lot: A lot which backs upon a limited access highway, a railroad, a physical barrier, or a nonresidential use and to which access from the rear of the lot is usually prohibited.

Street: A defined access way for vehicular traffic including all rights-of-way.

Subdivider: Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision: § 153A-335. "Subdivision" defined.

A "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions are created for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this part:

- (1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations.
- (2) The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved.
- (3) The public acquisition by purchase of strips of land for widening or opening streets or for public transportation system corridors.
- (4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations.
- (5) The division of land whereby the resulting lots front on a road that has been accepted for maintenance by the NC Department of Transportation and resulting lots meet County subdivision ordinance requirements. Nothing in this act or in GS 153A-330 through GS 153-335 shall be construed to prevent the County from allowing a minor subdivision, defined as the subdivision of a tract of land into not more than six lots where the intention is not to further subdivide the said tract of land and where no new street right-of-way is involved other than as a private minor road; a private minor road being defined as a road serving a minor subdivision and having access to an existing state-maintained road, and which private minor road shall have a right-of-way in accordance with the Division of Highways' "Minimum Construction Standards" for subdivision roads for the eventuality of constructing a public road by the residents of the private minor road; provided, however, the seller shall be made aware by the County Planning Commission of the provision of GS 136-102.6.¹

Word Interpretation: For the purpose of this ordinance, certain words shall be interpreted as follows:

- (1) The word "County" shall mean Rutherford County, North Carolina.
- (2) The words "Register of Deeds" shall mean the Register of Deeds of Rutherford County, North Carolina.

- (3) The words "ordinance" and "regulations" shall mean the Subdivision Regulations for Rutherford County, North Carolina.
- (4) The word "may" is permissive.
- (5) The words "shall" and "will" are mandatory.
- (6) The present tense includes the future tense and the future tense includes the present tense.
- (7) The singular includes the plural and the plural includes the singular.

ARTICLE VII PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

Section 700. General

No final plat of a subdivision within the defined jurisdiction of Rutherford County shall be recorded by the Register of Deeds of Rutherford County until it has been approved as provided herein. To secure such approval of a final plat, the subdivider shall follow the procedure established in this article. Furthermore, no street shall be accepted for ownership and maintenance, nor shall water, sewer or other public facilities or services be extended to or connected with any subdivision for which a final plat has not been approved.

Section 701. Procedure for Approval of Minor Subdivision.

In lieu of the procedures set forth in the remaining sections of this article, the subdivider may apply for final approval for any minor subdivision through the procedure set forth herein. This procedure is designed to eliminate the requirement for submission of a preliminary plat, thus allowing the subdivider to submit only the final plat for approval. The final plat for a minor subdivision shall contain all information required in Section 705, and the subdivision shall be subject to all development requirements of this ordinance.

Two copies of the final plat for all minor subdivisions must be presented to the Chairman of the Planning Commission or his designee at least 10 days prior to a regular or special meeting of the Planning Commission. The Planning Commission shall review each minor subdivision and shall find that it either does or does not meet the requirements of this ordinance. Said finding shall be in writing and recorded in the records of the Planning Commission. Based upon said findings, the Planning Commission shall approve, approve conditionally, or disapprove the proposed minor subdivision within 32 days after its first consideration. A conditional approval shall be made upon a finding of the Planning Commission that all conditions have been met except for minor provisions which are easily completed or corrected. If the plat is approved conditionally, the conditions shall be specified by the Planning Commission and if it so provides by a majority vote of those present, it may delegate to the County Planner or the Chief Building Inspector of Rutherford County the right to approve the final plat upon a finding that the conditions have been met. The Planning Commission shall note on the plat that the County Planner or Chief Building Inspector shall have authority to sign the final plat, all as more particularly appears hereafter. If the Planning Commission, however, reserves the right to approve the final plat, first consideration shall be given of the plat at the next regular or special meeting after the final plat has been submitted in accordance with this section. If the Planning Commission disapproves the final plat, the Planning Commission shall find in writing the provisions of this ordinance with which the plat does not comply and the facts

constituting non-compliance for said provisions. One copy of said findings shall be sent to the subdivider within 14 days of disapproval, and one copy shall be retained by the Planning Commission as a part of its proceedings. If the plat is disapproved, the subdivider may make such changes as needed to bring the plat into compliance with the provisions of this ordinance and resubmit the same for reconsideration by the Planning Commission pursuant to the procedures set forth in this section. If the proposed minor subdivision is approved by the Planning Commission, or approved conditionally as set forth above, a statement to that effect must appear on each copy of the plat presented. The approved subdivision plat must be recorded by the subdivider with the Rutherford County Register of Deeds within 30 days after approval.

Section 702. Sketch Plan

702.1 General. The subdivider may submit a sketch plan prior to submitting a preliminary plat. The purpose of submitting the sketch plan is to afford the subdivider an opportunity to obtain the advice and assistance of the Planning Commission in order to facilitate the subsequent preparation and approval of the preliminary plat. This procedure does not require formal application or fee.

702.2 Suggested Information. It is suggested that the sketch design plan depict or contain the following information:

- (1) a sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads and waterways;
- (2) the boundaries of the tract and the portion of the tract to be subdivided;
- (3) the total acreage to be subdivided;
- (4) the existing and proposed uses of land within the subdivision and adjoining it;
- (5) the proposed street and lot layout;
- (6) the name, address and telephone number of the owner;
- (7) street and lots of adjacent developed or platted properties; and
- (8) the zoning classification(s) of the tract and adjacent properties, if applicable.

Section 703. Preliminary Plat

703.1 General. For all subdivisions, the subdivider shall submit a preliminary plat, containing all required information, to the Chairman of the Planning Commission or his designee at least ten days prior to the regular Planning Commission meeting at which said plat is to be considered. Four copies of said preliminary plat shall be required, provided that additional copies may be required by the Planning Commission.

703.2 Information Required. The preliminary plat shall be clearly and legibly drawn at a scale of not less than 200 feet to one inch. The preliminary plat requires no administrative fee, shall be prepared by a registered land surveyor, and shall contain the following information:

- (1) Title Block: Subdivision name, subdivider's name, address and telephone number; North Arrow; scale (denoted graphically and numerically); date of plat preparation;

location of subdivision (township, county and state); name, address, telephone number and seal of registered surveyor preparing plat.

- (2) The boundaries of the tract or portion thereof to be subdivided, with all bearings and distances accurately shown.
- (3) Property lines and owners' names of adjoining properties and/or adjoining subdivisions of record.
- (4) Significant natural features including wooded areas, marshes, major rock outcrops, lakes or streams, or other natural features affecting the site.
- (5) Existing physical features including buildings, streets, railroads, power lines, utility easements, and town limit lines both on or adjacent to the land to be subdivided.
- (6) Should the Planning Commission determine that the land to be subdivided warrants special consideration because of topographical or other conditions peculiar to the site, the subdivider shall submit upon request, a topographic map of an interval deemed necessary to the Commission.
- (7) A sketch vicinity map showing the location of the subdivision in relation to the surrounding area.
- (8) Proposed streets showing pavement widths, if applicable, rights-of-way, curbing, if any, and proposed street names.
- (9) If a street is to be dedicated for public use, a letter of approval for the proposed street plan shall accompany the preliminary plat indicating that street plans have been reviewed and approved in the following manner:
 - (a) Street plans shall be reviewed and approved by the NC Department of Transportation prior to preliminary plat approval;
 - (b) Street plans shall contain all data. Calculations and information as required by the NC Department of Transportation;
 - (c) The developer shall meet all other requirements on NC GS 136-102.6.
- (10) Sketch view of proposed water and sewer system layouts (excluding individual wells and septic systems), shall show the location of lines, line sizes, approximate location of manholes, pumps, hydrants, force mains, and the connection of the proposed system(s) with the existing systems.
- (11) Approval of proposed water and sewer systems (see subsection 902.1 for further details):
 - (a) If a new public water supply and/or sewage disposal system is to be utilized, a letter of approval from the NC Department of Environment, Health and Natural Resources shall be submitted with the preliminary plat. In addition, when an expansion of an existing public system is utilized, the preliminary plat shall be accompanied by a letter of approval from the owner of said public system.

- (b) If individual wells and/or septic tanks are to be utilized, a copy of the preliminary plat shall be submitted to the Rutherford County Health Department for review and recommendation. The subdivider shall submit a written statement from the Health Department indicating that each lot is suitable for such individual systems, or in the alternative, the subdivider shall submit a written statement indicating that in lieu of such certification, the subdivider will comply with the provisions of Section 704.1 (b) (4) of this ordinance.
- (12) All proposed lot and street right-of-way lines with approximate dimensions, lot and block numbers, all easements, designation of any dedication or reservations to be made, and proposed use of land if other than single-family detached residences.
- (13) Total acreage in tract to be subdivided; smallest lot size in square feet; total number of lots; zoning district, if applicable.
- (14) Building setback lines.

3.3 Preliminary Plat Review Procedure

- (1) The Planning Commission shall review and either approve or disapprove each preliminary plat. First consideration of the preliminary plat shall be at the next regularly scheduled meeting of the Planning Commission that follows at least 10 days after the plat is submitted. The Planning Commission shall take action on the preliminary plat at its first consideration or within 45 days of its first consideration. Should the Planning Commission fail to act on the preliminary plat within the prescribed period, the plat shall be deemed to have been approved.
- (2) Before acting on the preliminary plat, the Planning Commission shall request a report from any person or agency directly concerned with the proposed development, including the District Highway Engineer, County Health Department, and such other officials or agencies thought necessary. Such reports shall certify compliance with or note deviations from the requirements of these regulations and include comments on other factors which bear upon the public interest.
- (3) If the Planning Commission approves the preliminary plat, such approval shall be indicated on four copies by the Chairman or other authorized member of the Planning Commission. One copy shall be returned to the subdivider, and three copies shall be retained by the Planning Commission.
- (4) If the Planning Commission disapproved said plat, the reasons for such actions shall be stated in writing and entered in the records of the Planning Commission. One copy of this statement shall be transmitted to the subdivider within 14 days of disapproval and one copy shall be retained by the Planning Commission as part of its proceedings. The subdivider may make changes and submit a revised plat which shall be submitted, reviewed, and acted upon by the Planning Commission pursuant to this section.
- (5) Approval of the preliminary plat shall be valid for one year unless a written extension is granted by the Planning Commission on or before the one year anniversary of said approval. If the final plat is not submitted for approval within the one year period or any period of extension, the said approval of the preliminary plat shall be null and void.

If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the Planning Commission an agreement between the financial institution and himself guaranteeing the following: -1) that said escrow account shall be held in trust until released by the Planning Commission and may not be used or pledged by the subdivider in any other matter during the term of the escrow; -2) that in the case of a failure on the part of the subdivider to complete said improvements, the financial institution shall, upon notification by the Planning Commission, immediately either pay to the County all funds in said account, or deliver to the County any other instruments fully endorsed or otherwise made payable in full to the County.

- (2) Default. Upon default, meaning failure on the part of the subdivider to complete, within the time period specified in the agreement in part (1) of this subsection, the required improvements as specified on the approved preliminary plat for that portion of the subdivision to be shown on the final plat, then the Planning Commission may require the subdivider, the surety, or the financial institution holding the escrow account to pay all or a portion of the bond or escrow account to the County. Upon payment, the county shall expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements.
- (3) Release of Guarantee Security. The Planning Commission may release a portion of any security posted as the improvements are completed and recommended for approval by the County Planner. Within 32 days after receiving the County Planner's recommendation, the Planning Commission shall approve or not approve said improvements. At such time the Planning Commission approves all improvements placed in the subdivision, then all security posted shall be immediately released. {Compliance letter required with each release}.
- (4) The developer need not obtain an inspection of each individual lot by the appropriate health official as to the suitability of each lot or the installation and use of a septic tank. However, if individual inspections are not made prior to the recordation of the plat, the recorded plat shall so reflect. Further, if individual inspections are not made as to the suitability of a lot for septic tank and/or individual well use, then in such event the developer must fully disclose this to the consumer and obtain a signed acknowledgment indicating one or the following:
 - (a) That the purchaser of the lot has been advised that no individual inspections of the subject lot has been made regarding its suitability, or lack thereof, for individual septic tank and/or well, and: -1) the consumer accepts the lot "as is" with no further recourse against the developer or any other party regarding the suitability of the lot for a septic tank and/or well; -2) the consumer accepts the lot subject to the consumer's right to have the lot tested as to its suitability for a septic tank, and if it is not suitable and a certification to that effect is obtained within 30 days of the date of this acknowledgment by the Rutherford County Health Department, the developer agrees to refund the purchase price within 30 days of the receipt of such certification.

on 705. Final Plat

705.1 General. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at the time of submission. No final plat shall be approved unless and until the subdivider shall have installed in that area

represented on the final plat all improvements required by this ordinance (with the exceptions of individual water and sewer systems), or shall have guaranteed their installation as provided for in Section 704. The subdivider shall submit four copies and one original of the final plat to the Chairman of the Planning Commission or his designee no less than 10 days prior to the regular Planning Commission meeting at which it shall be considered for approval. The final plat shall be submitted within one year of the date of approval of the preliminary plat unless an extension is given in accordance with subsection 703.3. Submission of the final plat shall be accompanied by a filing fee of \$200.00 or \$10 per lot, whichever is greater.

705.2 Contents Required. The original of the final plat shall be prepared on linen or mylar film, drawn on a sheet not more than 18 inches by 24 inches, or not less than 8½ by 14 inches, or such other size acceptable to the Register of Deeds of Rutherford County and at a scale of not less than 200 feet to one inch, and shall conform substantially to the preliminary plat as approved. The plat shall conform to the provisions of NC General Statutes, Section 47-30, as amended. The final plat shall be prepared by a registered land surveyor and shall show the following information:

- (1) Subdivision name; North Arrow; scale denoted graphically and numerically; date of plat preparation; township, county, and state in which the subdivision is located; the name(s), address(es) and telephone number(s) of the owner(s) and the registered surveyor(s) (including the seal(s) and registration number(s) of the registered surveyor(s).
- (2) The exact boundary lines of the tract to be subdivided fully dimensioned by lengths and bearings, and the location of intersecting boundary lines of adjoining lands.
- (3) The names and deed references (when possible) of owners of adjoining properties and adjoining subdivision of record (proposed or under review).
- (4) All visible and apparent rights-of-way, watercourses, utilities, roadways, and other such improvements shall be accurately located where crossing or forming any boundary line of the property shown.
- (5) Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, dimensions, bearings or deflection angles, radii, central angles, and tangent distances for the center line of curved streets and curved property lines that are not the boundary of curved streets.
- (6) The blocks numbered consecutively throughout the entire subdivision and the lots numbered consecutively throughout each block.
- (7) The accurate locations and descriptions of all monument markers and control points.
- (8) Street names and right-of-way lines of all street and the location and width of all adjacent streets and easements.
- (9) The location and dimensions of all rights-of-way, utility or other easements, riding trails, natural buffers, pedestrian or bicycle paths, and areas to be dedicated to public or private use with the purpose of each stated.
- (10) Plans for utility layouts, including sewers, storm sewers, water distribution lines, natural gas, telephone and electric service, illustrating connections to existing

systems or plans for individual water supply and/or sewage disposal systems. Plans must show line sizes, the location of fire hydrants, blow-offs, manhole pumps, force mains, and gate valves.

- (11) Forms for final certifications. The following certificates shall be lettered or rubber stamped on the final plat in such a manner as to ensure that said certificate will be legible on any prints made therefrom.

(a) Certificate of Approval by the Planning Commission

I, _____, Chairman of the Planning Commission hereby certify that the said commission fully approved the final plat of the subdivision entitled _____ on the _____ day of _____, 20____.

Chairman

OR

I, _____, Chairman of the Planning Commission hereby certify that the said Commission has conditionally approved the final plat and has delegated the County Planner or Chief Building Inspector to review successful completion of these conditions and to sign the final approval.

Chairman

AND

I, _____, County Planner/Chief Building Inspector do hereby certify all conditions have been met and a review fee in the amount of \$_____ has been paid to Rutherford County. Therefore, the final plat is hereby approved.

Date

County Planner/Chief Building Inspector

*Certificates (b), (c), (d), (e), and (g) above must be presented on the final plat and signed by the designated person prior to Planning Commission approval

***(b) Certificate of Ownership and Dedication**

I (We) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent and dedicate all streets, sewers, water lines, alleys, walks, parks, and other sites to the public or private use as noted. Further, I (we) certify the land as shown hereon is within the platting jurisdiction of Rutherford County, North Carolina.

Date

Owner

Owner

***(c) Certificate of Survey and Accuracy**

I, _____, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book____, Page____, etc.) (other); that the error of closure as calculated by latitudes and departures is 1: _____; that the boundaries not surveyed are shown as broken lines plotted from information found in Book____, Page____; and that this map was prepared in accordance with GS 47-30 as amended. Witness my hand and seal this ____day of _____, A.D., 20__.

Registered Surveyor
License or Registration Number

***(d) Certification of Approval of the Installation and Construction of Streets, Utilities and Other Required Improvements.**

I hereby certify -1) that a guarantee of the installation of the required improvements in an amount or manner satisfactory to Rutherford County has been received, and -3) that a filing fee in the amount of \$_____ has been paid to the County.

OR

I _____, being duly sworn depose and say that I am a registered surveyor in the state of North Carolina and that I am the surveyor on the _____ Subdivision.

That in my position as surveyor I designed the street within the subdivision and prepared the specifications for their construction pursuant to my authority under GS 89C.

That I have reviewed the construction of other roads within the subdivision and that, in my professional opinion, the roads meet minimum standards as required by the Rutherford County Regulations, having an all weather surface of stone/gravel or pavements a minimum width of 16 feet with two foot shoulders.

In my opinion the gravel consists of a minimum of three inches of augured base course of number seven stone and the maximum grade does not exceed 18%. All cul-de-sacs have a minimum all weather surface of stone, gravel, or pavement and a radius of 35' and have a minimum right of way radius of 50'.

This the _____ day of _____, 20__.

Name, Registered Land Surveyor #

***(e) Certificate of Approval of Water Supply and Sewage Disposal Systems**

I hereby certify that each lot or group of lots sold has potentially suitable soil conditions and land areas to accommodate on-site water treatment. Individual permit issuance shall be based upon a field investigation of each lot to determine suitability. Permitted lots will be required to have 100% repair area.

Date

To be signed by appropriate
appropriate state or local agency

OR in the alternative,

I hereby certify that the water supply and/or sewage disposal system (strike any provision which does not apply if community or public water or sewage is to be used) shall be by individual well/individual septic tank and that the disclosures of Section 704.1 (4) of the Rutherford County Subdivision Ordinance will be given to initial purchasers within said subdivision and that all other requirements of said section shall be met.

Subdivider

(f) Subdivision Streets Disclosure Statement

Under and pursuant of Section 136-102.6 (f) of the North Carolina General Statutes, prospective purchasers of lots, and property in the _____ described by plat recorded in Book of Maps No. _____ Page _____, Rutherford County Register of Deeds are hereby advised that : -1) the roads and streets in the subdivision are private roads and streets and have not been and will not be constructed to minimum standards sufficient to allow their inclusion in the State Highway System for maintenance; -2) responsibility for the construction and maintenance of said private roads and streets rests with the owners of lots within the subdivision; -3) any subsequent inclusion of the subdivision roads and streets in the State Highway System may be upon the condition that lot owners participate in the cost of initial improvement of the roads and streets sufficient to meet minimum State standards.

(g) Public Right-of-Way Certificate:

DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS

PROPOSED SUBDIVISION ROADS
CONSTRUCTION STANDARDS CERTIFICATION

APPROVED _____
DISTRICT ENGINEER

DATE _____

OR

Private Right-of-Way Certificate:

Road Construction Certificate

I _____, being duly sworn depose and say that I am a professional engineer in the state of North Carolina and that I am the engineer on the _____ Subdivision.

That in my position as engineer I designed the street within the subdivision and prepared the specifications for their construction pursuant to my authority under GS 89C.

That I have reviewed the construction of the roads within the subdivision and that in my professional opinion the roads meet minimum standards as required by the NC Department of Transportation, Division of Highways' "Subdivision Roads, Minimum Construction Standards," dated January, 2000 or as hereafter amended.

In my professional opinion the road construction was conducted in accordance with the design approved by the district engineer for NC DOT.

This the _____ day of _____, 20__.

Professional Engineer

705.3 Final Plat Review Procedure

- (1) The subdivider shall submit the final plat to the Chairman of the Planning Commission or his designee within one year of the date of preliminary plat approval (unless an extension was granted) and at least ten days prior to a regularly scheduled meeting at which said plat is to be considered, and shall submit at least four copies of the final plat plus one original of the final plat.
- (2) Before acting on the final plat the Planning Commission may request reports from any person or agency directly affected by the proposed development. Such reports shall certify compliance with or note deviations from the approved preliminary plat and the requirements of this ordinance.
- (3) First consideration of the final plat shall be at the next regular or special meeting of the Planning Commission after the final plat is submitted in accordance with the procedures set forth in this section. The Planning Commission shall approve, conditionally approve, or disapprove the final plat at its first consideration or within 32 days of its consideration. If the Planning Commission fails to act on the final plat within the prescribed period, then the final plat shall be deemed to have been approved. Prior to final plat approval, certificates (b), (c), (d) and (e) in subsection 705.2 must be presented on the final plat and be signed by the designated persons.
- (4) If the Planning Commission approves the final plat, such approval shall be indicated on the original and each copy of the final plat by certificate (a) in subsection 705.2. If the Planning Commission conditionally approves the final plat, the conditions shall be specified by the Planning Commission and if it is so provided by majority vote of those present, it may delegate to the County Planner or the Chief Building Inspector of Rutherford County the right to approve the final plat upon a finding that the conditions have been met. The Planning Commission shall note on the plat that the County Planner or Chief Building Inspector shall have authority to sign the final plat. Conditional approval shall be only in those cases where only minimal corrections are needed.
- (5) If the Planning Commission does not approve or conditionally approve the final plat, but disapproves the final plat, the Planning Commission shall find in writing the provisions of this ordinance with which the plat does not comply and the facts constituting noncompliance with said provisions. One copy of said finding shall be sent to the subdivider within 14 days of disapproval and one copy shall be retained by the Planning Commission as a part of its proceedings. If the final plat is disapproved, the subdivider may make such changes as needed to bring the plat into compliance with the provisions of this ordinance and resubmit the same for reconsideration by the Planning Commission pursuant to the procedures set forth in this section.
- (6) If the final plat is approved by the Planning Commission, such approval shall be indicated [certificate (a), subsection 705.2] on the original tracing on each copy of the final plat. The original tracing of the final plat shall be recorded by the subdivider with the Rutherford County Register of Deeds within 30 days after the date of final approval. Otherwise, such approval shall be null and void. One print shall become a permanent record of the Planning Commission.

- (7) Effect of plat approval on dedications: The approval of a final plat shall not be deemed to constitute or affect the acceptance by the County of the dedication of any ground, public utility line, or other public facility shown on the plat. However, Rutherford County may by resolution of the County Commissioners accept any dedication made to the public of lands or facilities for parks, public utility lines or other public purposes, when the lands or facilities are located within its subdivision regulation jurisdiction.
- (8) Re-subdivision Procedure: For any re-platting or re-subdivision of land which has been previously platted or subdivided, the same procedures and requirements shall apply as prescribed in this Ordinance for an original subdivision.

Section 706. Recording of the Final Plat

Within 30 days after the final plat has been approved by the Rutherford County Planning Commission, it shall have been recorded with the Register of Deeds of Rutherford County. Should the 30 day time limit expire before the plat is recorded, it must be resubmitted to the Chairman of the Planning Commission or his designee for reprocessing. Upon adoption of these regulations, the Register of Deeds shall not thereafter file or record a plat of a subdivision located within the subdivision jurisdiction area of Rutherford County until said plat has been approved by the Planning Commission. Without approval of the Planning Commission, the filing or recording of a subdivision plat shall be null and void. The Clerk of Superior Court of Rutherford County shall not order or direct the recordings of a plat where such recording would be in conflict with these regulations.

Section 707. Exceptions

Cluster subdivisions, as defined in Article VI, Section 600 of this ordinance, are considered subdivisions and are thus subject to these regulations. All requirements of this ordinance are applicable to cluster subdivisions unless specifically exempted by this section. The following standards and review procedures shall apply to cluster subdivisions.

707.1 Purpose. Cluster subdivisions under these provisions are intended to promote imaginative, well-designed subdivisions which preserve common open areas in return for reduced individual lot area, and which encourage a more cost effective approach to housing development.

707.2 Density. A cluster subdivision shall not contain a greater number of lots than would be allowed in a conventional subdivision.

707.3 Utilities. Utilities in a cluster subdivision shall meet all requirements of this ordinance. In addition, the following shall apply:

In any proposed cluster subdivision where public water and/or sewer is not available and some or all of the proposed lots are smaller than the standards for lots in Section 906, each proposed building lot shall be provided with safe and adequate water and sewerage service. Approval for each lot in the proposed subdivision shall be provided in writing from the local and/or state agencies required to approve the proposed systems or facilities.

707.4 Minimum Lot Area. Within a cluster subdivision, the area of individual lots designed for building sites, as determined in Section 906, may be reduced by up to 60% provided:

- (1) Utilities can be provided in accordance with requirements in this ordinance, and
- (2) Common areas for preservation, recreation and/or open space are provided within the cluster subdivision in an amount at least equivalent to the total reduction in lot sizes. In no case shall the common area be less than 20% of the total development acreage.

707.5 Yard Requirements.

- (1) No lot shall have a front yard setback of less than 15 feet. For cluster subdivisions, front yard setbacks shall be measured between the street right-of-way and the front building line.
- (2) Side yards shall be a minimum of 10 feet each.
- (3) Rear yards shall be a minimum of 10 feet each.
- (4) Corner lots shall have a minimum side yard of 15 feet adjacent to a street or drive. All lots abutting an existing subdivision shall have minimum yard requirements equivalent to the adjacent subdivision.

707.6 Lot Width and Depth. There are no minimum lot width or depth requirements in a cluster subdivision.

707.7 Common Areas. Common areas are to be designated in the cluster subdivision for the purpose of providing open space for recreation, preservation and/or recreating facilities for owners and/or occupants of the lots in the cluster subdivision. The common area required in each cluster subdivision shall be equivalent to the total reduction in lot sizes. In no case shall the common areas be less than 20% of the total development acreage.

707.8 Ownership and Maintenance of Common Areas and Facilities. All common areas and facilities, including but not limited to, land, structures and facilities to be held and used in common in the cluster subdivision shall be conveyed to an association of the owners of the lots within the cluster subdivision. Within the conveyance, provisions for maintenance and repair of said land and facilities shall be stipulated. The conveyance shall also provide mandatory membership of all present and future owners and residents within the cluster subdivision, and shall also provide for a levy against all property within the development for said maintenance and repair. All such conveyance and covenants shall be stipulated. All such conveyance and covenants shall be made a part of the subdivision review process and shall be approved as to form and content by the County Attorney.

707.9 Plat Requirements. In addition to the procedure and information required in Article VII, the preliminary and final plats shall also require the following:

- (1) The term "cluster subdivision" shall be placed in the title block.
- (2) All proposed structure shall be drawn to scale and sited on the plat.
- (3) Designation on the plat for all common areas and specific descriptions for their proposed use.

- (4) Designation of all streets, facilities and utilities which are to be owned and maintained in common with supporting documentation to provide for transfer and maintenance of the common property and facilities.
- (5) The size of each lot in square feet or acres shall be shown on the preliminary plat or referenced on a separate attachment. The size of all common areas in square feet or acres shall be designated on the plat.

ARTICLE VIII GENERAL REQUIREMENTS

Section 800. Conformity to Existing Maps or Plans

The location and width of all proposed streets shall be in conformity with official plans and maps of Rutherford County, and with existing or amended plans of the Planning Commission.

Section 801. Continuation of Adjoining Street Systems

The proposed street layout shall be coordinated with the street system of the surrounding area. Where possible, existing principal streets shall be extended.

Section 802. Large Tracks or Parcels

Where land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical further resubdivision.

Section 803. Street Names

Proposed streets, which are obviously in alignment with existing streets, shall bear the assigned name of the existing streets. In no case shall the name of the proposed street duplicate or be phonetically similar to existing street names, irrespective of the use of the suffix street, avenue, boulevard, drive, place, court, etc.

Section 804. Surveying and Placement of Monuments

"Standards of Practice of Land Surveying in North Carolina", as adopted and hereafter amended by the NC Board of Registration for Professional Engineers and Land Surveyors, under provisions of Chapter 89 of the NC General Statutes, shall apply when conducting surveys.

Section 805. Contour Map

A contour map shall be provided if requested by the Planning Commission. The contour interval required shall depend upon topographic and drainage characteristics and shall be specified by the Planning Commission.

Section 806. Air Quality

As authorized under Chapter 143, Article 21 of the General Statutes, all subdivisions with more than 500 units at a density of more than 7,680 persons per square mile (12 persons/acre) shall comply with air quality guidelines set out by the Division of Environmental Management of the NC Department of Environment, Health and Natural Resources.

Section 807. Access to Lot

When a proposed subdivision does not have a direct access or is not adjacent to a publicly dedicated road, the subdivider must provide adequate assurance that the subdivision will have adequate access to the satisfaction of the Planning Commission.

ARTICLE IX IMPROVEMENTS REQUIRED AND MINIMUM STANDARDS OF DESIGN

Section 900. Suitability of Land

Where land to be subdivided is found by the Planning Commission to be subjected to the conditions of flooding, improper drainage, severe erosion, slides or to have other characteristics which pose an ascertainable danger to health, safety or property, the *subdivider* shall take measures necessary to correct said conditions and to eliminate said dangers.

Section 901. Streets and Roads

All subdivision streets and roads shall be designed and constructed in accordance with the requirements set forth by the NC Department of Transportation, Division of Highways' "Subdivision Roads, Minimum Construction Standards," dated January, 2000 or as hereafter amended. Plans for all streets in subdivisions within the jurisdiction of this ordinance shall be reviewed by the Department of Transportation and a recommendation provided to the Planning Commission indicating whether the proposed street plans meet the street requirements as specified in this section prior to preliminary plat approval.

All lots to be platted shall have access to a street and all proposed streets shall be installed in accordance with these requirements, prior to final plat approval unless otherwise permitted pursuant to Section 704. For all subdivisions containing public or private streets, the subdivider shall meet the requirements of NC General Statutes, Section 136-102.6.

But notwithstanding the foregoing, private minor roads as defined in this ordinance shall be exempted from this requirement. The requirement for private minor roads is a minimum 45 foot right-of-way.

The subdivider shall submit a signed statement from a registered engineer or registered surveyor indicating that the streets have been constructed in accordance with the minimum standards. Such statement shall be submitted prior to final plat approval, except that if a financial security guarantee for the streets is posted in accordance with 704.1 of this ordinance, then such statement shall be submitted prior to the release of the security.

Section 902. Water and Sewer Systems

The preliminary subdivision plat must be accompanied by satisfactory evidence as to the proposed method and system of water supply and sanitary sewage collection and disposal. The installation of all said systems (except for individual systems—wells and septic tanks) shall be required prior to final plat approval unless otherwise permitted pursuant to Section 704.

902.1 Public Systems

- (1) Public Water Systems: Plans and specifications for a new public water supply system (refer to the definition of public water system in Article VI of this ordinance) shall be prepared by an engineer licensed to practice in North Carolina and shall be approved by the Division of Health Services of the NC Department of Human Resources Prior to construction of the system.

When the proposed system is to be connected to an existing system, approval of the project must also be obtained from the owner of the existing system prior to construction, and the system shall be constructed according to the specifications and standards of the existing system.

A letter of approval of the system plans and specifications from the NC Department of Human Resources shall be submitted with the preliminary plat. When applicable, a letter of approval from the owner of the existing system to which an inter-connection is proposed shall also be submitted with the preliminary plat.

- (2) Public Sewer Systems: Plans and specifications for a new public sewer system specifications for a new public sewer system of expansion of an existing public sewer system (refer to the definition of public sewer system in Article VI of this ordinance) shall be prepared by an engineer licensed to practice in North Carolina and shall be approved by the NC Department of Environment, Health and Natural Resources prior to construction of the system.

When the proposed system is to be connected to an existing system, approval of the project must also be obtained from the owner of the existing system prior to construction, and the system shall be constructed according to the specifications and standards of the existing system.

A letter of approval of the system plans and specifications from the NC Department of Environment, Health and Natural Resources shall be submitted with the preliminary plat. When applicable, a letter of approval from the owner of the existing system to which an inter-connection is proposed shall be submitted with the preliminary plat.

902.2 Individual Systems. Where public water and/or sewer is not available for each lot in the subdivision, the developer shall provide certification that the installed or proposed individual system in each lot fully meet the requirements of the Rutherford County Health Department. In the alternative, the developer shall certify on the final plat that the subdivider will meet all requirements of Section 704.1(4) of the ordinance if prior approval of the Rutherford County Health Department is not sought or received as to each lot.

902.3 Fire Hydrants. Where a water line six inches or greater in diameter is required in a public system, and the system has been designed and approved by the Division of Health Services of the NC Department of Human Resources to provide fire protection, fire hydrants shall be installed on said line. The hydrants shall be spaced so that coverage to all building sites along said line may be provided with not more than 500 feet of hose, and shall be located to facilitate access, hose laying and drainage.

Section 903. Sedimentation Control

In order to prevent soil erosion and sedimentation pollution of streams, springs, flat water bodies or other drainage networks, and when there are plans for a land disturbing activity of one acre or more, the subdivider shall show proof with the preliminary plat that an erosion and sedimentation control plan has been submitted to and approved by the state agency having jurisdiction (the Division of Land Resources of the Department of Environment, Health and Natural Resources as of the date of adoption of this ordinance) in accordance with the NC Administrative Code Title 15, as adopted by the NC Sedimentation Commission, January 11, 1978, as amended.

Section 904. Blocks.

The maximum and minimum length and width of blocks shall be as follows:

- (1) Length: Block length shall not exceed 1,500 feet nor be less than 400 feet. Where deemed necessary by the Planning Commission, a pedestrian cross-walk at least 10 feet in width may be required.
- (2) Width: Blocks shall have sufficient width to allow two tiers of lots of minimum depth. Blocks may be one lot in depth where single tier lots are required to separate residential development from through vehicular traffic or non-residential uses.

Section 905. Sidewalks

Sidewalks, if constructed, shall be within the street right-of-way and shall be constructed to a minimum width of four feet and shall consist of a minimum thickness of four inches of reinforced concrete.

Section 906. Lots

Residential lots shall comply with the following requirements:

906.1 Area. All lots shall have an area of at least 8,000 square feet. In calculating lot area, the street right-of-way shall not be included. Additional lot area is required when:

- (1) A lot is served by public water or public sewer, but not both. In such case, said lot shall be not less than 15,000 square feet in area.
- (2) Neither public water or public sewer is provided. In such case, said lot shall be not less than 20,000 square feet in area.

These requirements shall be increased on the recommendation of the Rutherford County Health Department.

906.2 Width and Depth. All lots shall have a minimum width at the building line of 70 feet and a minimum width at the street right-of-way line of 35 feet. Corner lots shall have an extra width of 10 feet to permit adequate setback from side streets. Lots served by neither public water or public sewer shall have a width of at least 100 feet at the building line. All lots shall have an average depth of at least 100 feet. Single tier lots shall have an average depth of at least 125 feet. Lots served by neither public water nor public sewer shall have an average lot depth of at least 150 feet. Average lot depth shall be the average of the length of the side lot lines measured from the street right-of-way line to the rear lot line.

906.3 Orientation of Lot Lines. Side lots lines shall be substantially at right angles or radial to street lines.

Section 907 Building Setback lines

The minimum building setback lines shall be as follows:

- (1) Distance from front street right-of-way line: 20 feet.
- (2) Distance from side property line: 15 feet.
- (3) Distance from rear property line: 20 feet.
- (4) Distance from a side property line abutting a street right-of-way line: 20 feet.

Section 908. Easements

Utility and other easements shall be provided as follows:

- (1) Utility easements centered on rear or side lot lines shall be provided where deemed necessary by the Planning Commission, and shall be at least five feet in width.
- (2) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction, or both, as may be adequate for the purpose of maintaining adequate drainage. Parallel streets or parkways may be required in connection therewith.

ARTICLE X VARIANCES

Where, because of severe topographical or other conditions peculiar to a site, strict adherence to the provisions of this ordinance would cause an unnecessary hardship, the Planning Commission may authorize a variance to the terms of this ordinance only to the extent that is absolutely necessary and not to an extent which would violate the intent of the ordinance. Any variance thus authorized is required to be entered in writing in the minutes of the Planning Commission and the reasoning on which the departure was justified set forth. There is a variance application fee of \$200 per incident.

ARTICLE XI AMENDMENTS

Section 1100. Amendment Procedures

This ordinance may be amended from time to time by the County Commissioners as herein specified, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Commission for review and recommendation. The Planning Commission shall have 60 days from the date of presentation to the Planning Commission within which to submit its report. If the Planning Commission fails to submit a report within the specified time, it shall be deemed to have recommended approval of the amendment. No amendment shall be adopted by the County Commissioners until they have

held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in Rutherford County at least once a week for two successive calendar weeks prior to the hearing. The initial notice shall appear not more than 25 or less than ten days prior to the hearing date. In computing the 10-25 day prior, the date of publication is not to be counted, but the date of the hearing is.

ARTICLE XII
LEGAL PROVISIONS

Section 1200. Penalties for Violation

After the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this ordinance, thereafter subdivides his land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this ordinance and recorded in the office of the Rutherford County Register of Deeds shall be guilty of a misdemeanor. The description by meets and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. Rutherford County, through its attorney or other official designated by the County Commissioners, may enjoin any illegal subdivision, transfer, or sale of land by action for injunction. Further, violators of this ordinance shall be subject, upon conviction, to a fine and/or imprisonment as provided by GS 14-4.

Section 1201. Separability

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 1202. Abrogation

This ordinance shall neither repeal, abrogate, annul, impair, nor interfere with any existing subdivisions, the plats of which are properly recorded in the Office of the Register of Deeds prior to the effective date of this ordinance, nor with existing easements, covenants, deed restrictions, agreements or permits previously adopted or issued pursuant to law prior to the effective date of this ordinance.

Section 1203. Effective Date

This ordinance shall take effect and be in force from and after its adoption by the County Commissioners of Rutherford County, this 1st day of April, 1985.

Private Streets. The only design or construction standards for private minor roads, as defined in this ordinance, is the establishment of a minimum 45' right-of-way. All other private subdivision streets and roads shall meet the following minimum construction standards:

- (1) Right-of-way dedication shall be the same as for public streets.
- (2) Streets shall have a minimum travel width of 16' all weather surface (stone/gravel or pavement) with 2' shoulders.
- (3) If streets are to be graveled, a minimum of 3" of aggregated base course (ABC) No. 7 stone shall be used.
- (4) Maximum grade for streets shall be 18%.
- (5) Cul-de-sacs shall have a minimum all weather surface (stone/gravel or pavement) radius of 35' and shall have a minimum right-of-way radius of 50'.

The subdivider shall submit a signed statement from a registered engineer or registered surveyor indicating that the streets have been constructed in accordance with the minimum standards. Such statement shall be submitted prior to final plat approval, except that if a financial security guarantee for the streets is posted in accordance with 704.1 of this ordinance, then such statement shall be submitted prior to the release of the security.

TO: RUTHERFORD COUNTY PLANNING DEPARTMENT

RE: MINOR SUBDIVISION REGULATIONS

DATE: _____

I/We _____ make application to the
Rutherford County Planning Commission for consideration of classifying
_____ Subdivision as a minor subdivision, subject to
all requirements of a minor subdivision as defined in the Rutherford County
Subdivision Ordinance and in no way submitting to circumvent the requirements of
this ordinance pertaining to subdivisions other than Minor Subdivisions. I/We
understand that any further subdivision of the parent tract of land or any lots or
parcels of land there from subdivided which are subject to the provisions of this
ordinance shall not be considered as a minor subdivision.

OWNER/AGENT

ON THIS THE _____ DAY OF _____, 20_____.

NOTARY PUBLIC

MY COMMISSION EXPIRES _____.